

RESPONSE AND REMARKS

Amendments to Claims 1, 4, 13, 21, 26-28, 32, 35, 44, 52, 57-59, and 63-67 are filed concurrently herewith to more distinctly claim the invention. Entry of the amendments, and reconsideration of the application, as amended, are respectfully requested.

SPECIFICATION

In the Office action, the Examiner objected to use of various trademarks as used in the specification and indicated that the trademarks should be capitalized wherever they appear. Responsive to the Examiner's objections to the use of trademarks, the specification, as further amended, identifies trademarks used in the specification, references the proprietary nature of those trademarks through the use of the "TM" symbol, and equates the TM-designated trademark with both an all-capitalized version of the trademark and with alternative ways in which the trademarks appear in the specification.

In addition, further Amendments to the specification are submitted herewith to make minor corrections to the specification, such as indicating reference numbers present in the drawings, and other minor corrections.

SECTION 101

In the Office Action, the Examiner rejected Claims 32 through 38, 41 through 51, and 56 through 61 under 35 U.S.C. §101 as being "directed to non-statutory subject matter." The Examiner concluded that "[a]lthough the recited process produces a useful, concrete, and tangible result" (cited by the Examiner as "calculated rates for carriers used in selecting a specific service for shipping"), since the claimed invention, as a whole, is not within the technological arts . . . , Claims 32-38, 41-52, and 57-62 are deemed to be directed to non-statutory subject matter." In the Office Action, the Examiner found, for example, that the recited step of "displaying an online interactive graphic . . . can be performed in the mind of a user by use of a pencil and paper."

The Examiner's rejections under Section 101 have been carefully considered. Although it is respectfully submitted that a display of an online interactive graphic could not be performed in the mind of a user by use of a pencil and paper because use of pencil and paper cannot produce an online interactive graphic, Claims 1, 13, 21, 32, 44, 52, 63, and 64 have been amended to more distinctly recite that the relevant cross-comparison is displayed to a display device that communicates with a user client computer device used by the relevant user. For example, Claims 1, 32, and 63 have been amended to recite that the "...respective simultaneous online interactive graphic cross-comparison is displayed to a respective display device that communicates with the respective user client computer device used by the respective user." Further, Claims 13, 44, and 64 have been amended to recite that "... the first cross-comparison is displayed to a respective display device that communicates with the respective user client computer device used by the first particular user." Yet further, Claims 21 and 52 have been amended to recite that "... the second cross-comparison is displayed to a respective display device that communicates with the respective user client computer device used by the second particular user."

It is respectfully submitted that the amendments to Claims 1, 13, 21, 32, 44, 52, 63, and 64 more distinctly recite that the claims are directed to a display to a device that communicates with a computer device and are therefore directed to statutory subject matter under Section 101. Further, it is respectfully submitted that in view of the amendments to Claims 32 and 44, claims dependent on them, namely Claims 33-43, and Claims 45-52 are therefore directed to statutory subject matter.

In addition, it is respectfully submitted that Claim 56 has been previously withdrawn.

Further, it is respectfully submitted that prompting a user with an interactive prompt as claimed in Claim 57, is directed to statutory subject matter and is not an abstract idea that could be performed in the mind of a user.

For similar reasons, it is respectfully submitted that Claim 58, which is directed to "prompting a ...user...wherein said...prompt comprises a display of a

simultaneous online interactive graphic cross-comparison", is directed to statutory subject matter in that a display of a simultaneous online interactive graphic cross-comparison is not an abstract idea that could be performed in the mind of a user.

It is further respectfully submitted that Claims 59 (which recites collecting user input), 60 (which recites detecting a clicking ... of a cell of an online interactive display), 61 (which recites detecting a placement of a cursor...over a cell of an online interactive display), and 62 (which recites responding to a clicking...by displaying an onscreen display of a shipping label) are directed to statutory subject matter in that the recited actions are not abstract ideas that could be performed in the mind of a user.

SECTION 103

In the Office Action, the Examiner rejected Claims 1-21, 26-52, and 57-70 under 35 U.S.C. §103(a) as being unpatentable over Kara (U.S. Patent No. 6,233,568; "Kara") in view of UPS® Service Guide (www.ups.com) and FedEx® Services (www.fedex.com) and Barnett et al. (U.S. Patent No. 6,369,840; "Barnett").

In rejecting Claims 1-4, 13-19, 21, 26-28, 32-35, 44-50, 52, 57-59, and 63-67, the Examiner conceded that "Kara does not specifically disclose the rates being calculated with respect to time" but contended that "[b]oth UPS® and FedEx® disclose specific services where they are guaranteed delivery by a certain time in the day."

In rejecting these claims, the Examiner, with reference to Figure 8 of Kara, stated that: "Kara discloses an onscreen interactive display with a selection and comparison section for a plurality of carriers with a plurality of services." Office Action, page 5, topic number 6. The Examiner conceded that "Kara does not specifically disclose the rates being calculated with respect to time. . ." but , citing excerpts from an archive of www.ups.com and www.fedex.com, concluded that "[b]oth UPS® and FedEx® disclose specific services where they are guaranteed delivery by a certain time in the day. . ." and that "[i]t would have

been obvious to one having ordinary skill in the art at the time the invention was made to include the time sensitive 'urgency' services, as disclosed by FedEx® and UPS®, in order to ship [some]thing and compete with a time advantage using guaranteed delivery times and to reduce costs, when delivery time is not of importance." Office Action, page 5, topic number 6.

The Examiner conceded that "Kara, UPS® and FedEx® fail to disclose the use of a graph which simultaneously displays a graph of shipping fees and services, where one axis being date and one axis being time and where each cell is located at the intersection of the date and time." According to the Examiner, Barnett discloses "the use of a calendar which can be [used] for online purchasing of services (column 2, lines 63-67), where there is a graphical representation of date on one axis and time on another (see Figure 9)." The Examiner concluded that "[i]t would have been obvious to . . . display the calculation of shipping rates, calculated by Kara, UPS® and FedEx®, in the format of a plurality of cells with date on one axis and time on another . . . in order to provide a multi-layers system wherein different categories can be overlaid on one another providing a single integrated display that allows a user to order or purchase a system based on the calendar day and time . . ." Office Action, page 6, topic number 6 (citing Barnett, col. 2).

The Examiner's rejection of Claims 1-21, 26-52, and 57-70 under 35 U.S.C. §103(a) has been carefully considered. Claims 1, 4, 13, 21, 26-28, 32, 35, 44, 52, 57-59, 63-67 have been amended to more distinctly recite the claimed invention. For the reasons described below, the amended Claims and the previously presented Claims of the present application are respectfully submitted to be patentably distinct from the cited references, whether considered alone or in combination.

It is respectfully submitted, for the reasons explained further below, that the cited references, even when combined, do not teach or suggest all the claim limitations of the amended and previously presented independent Claims of the present application as required under MPEP §706.02(j). Further, for the reasons explained further below, it is respectfully submitted that there is no teaching or

suggestion to make the claimed combination or the reasonable expectation of success found in the prior art, as further required under MPEP §706.02(j).

First, for the reasons described below, it is respectfully submitted that there is no disclosure in either the UPS® or FedEx® references of a cross-comparison display or calculation of rates for the various UPS® or FedEx® delivery services that are depicted in those references. Further, it is respectfully submitted that, for the reasons described below, there is no disclosure in either the UPS® or FedEx® references of a display of a cross-comparison of shipping rates for delivering a parcel to a respective particular delivery destination by or before a respective particular parcel delivery time on a respective particular parcel delivery date, as claimed in one way or another in the Claims of the present application.

The cited FedEx® reference does not disclose any calculation of rates. The cited UPS® reference depicts multiple screen shots; each screen shot describes one UPS® delivery service; and for each delivery service, the UPS® reference shows a "Quick Cost Calculator" link to determine shipping rates, availability and delivery times for the relevant delivery service. For example, one screen shot describes UPS® Next Day Air Early A.M. and provides a Quick Cost Calculator" link to determine shipping rates, availability and delivery times for UPS® Next Day Air Early A.M. Another screen shot describes UPS® Next Day Air and provides a "Quick Cost Calculator" link to determine shipping rates, availability and delivery times for UPS® Next Day Air. Yet another screen shot describes UPS® 2nd Day Air A.M. and provides a Quick Cost Calculator" link to determine shipping rates, availability and delivery times for UPS® 2nd Day Air A.M.

It is respectfully submitted that, even though both the UPS® and FedEx® references disclose various delivery services, and even though the UPS® reference discloses a "Quick Cost Calculator" link for calculating a rate for a particular delivery service, there is no disclosure in either the UPS® or FedEx® references of a cross-comparison display or calculation of rates for the various UPS® or FedEx® delivery services for delivering a parcel by or before a

respective particular parcel delivery time on a respective particular parcel delivery date, as claimed in one way or another in, e.g., Claims 1, 32, and 63.

It is respectfully submitted that the Claims of the present application can be distinguished from a listing of various delivery service levels offered by a single carrier, e.g., overnight, 2-day, etc. as depicted, for example, in FIG. 8 of Kara and in the UPS® reference. For example, Claims 1 and 32 are directed to a "display[] ... [of] a cross-comparison of a plurality of respective service-specific, carrier-specific shipping rates ... wherein each respective service-specific, carrier-specific shipping rate is displayed adjacent a display indicating a respective time and date before which a particular respective carrier would deliver the respective particular parcel to a respective particular delivery destination via a particular respective delivery service ...".

It is respectfully submitted that, for the reasons described below, a "display[] ... [of] a cross-comparison of a plurality of respective service-specific, carrier-specific shipping rates ... wherein each respective service-specific, carrier-specific shipping rate is displayed adjacent a display indicating a respective time and date before which a particular respective carrier would deliver the respective particular parcel to a respective particular delivery destination via a particular respective delivery service ...", as claimed in Claims 1 and 32, is patentably distinct from a mere listing of various delivery service levels offered by a single carrier.

Similarly, Claim 63 is directed to a "display[] ... [of] a cross-comparison of a plurality of respective service-specific, carrier-specific shipping rates ... wherein each respective service-specific, carrier-specific shipping rate is displayed in correspondence to a display of a respective particular parcel delivery time on a respective particular parcel delivery date by which a particular respective service offered by a particular respective carrier would deliver the respective particular parcel to a respective particular delivery destination at the respective particular parcel delivery time on the respective particular parcel delivery date...".

It is respectfully submitted that, for the reasons described below, a "display[] ... [of] a cross-comparison of a plurality of respective service-specific,

carrier-specific shipping rates ... wherein each respective service-specific, carrier-specific shipping rate is displayed in correspondence to a display of a respective particular parcel delivery time on a respective particular parcel delivery date by which a particular respective service offered by a particular respective carrier would deliver the respective particular parcel to a respective particular delivery destination at the respective particular parcel delivery time on the respective particular parcel delivery date...", as claimed in Claim 63, is patentably distinct from a mere listing of various delivery service levels offered by a single carrier.

It is respectfully submitted that the distinction is patentable because a mere listing of various delivery service levels offered by a single carrier lists the service levels, but does not explicitly identify (such as by displaying) a date and time by which, or before which, the parcel would be delivered. As disclosed in the specification of the present application, certain carriers and/or delivery services may not support delivery on certain days, for example, Saturdays, or Sundays. See, e.g., Specification, page 61, line 25 through page 62, line 14. That is, even if a package is sent on a Thursday via a two-day service with a certain carrier, if that service, and/or that carrier does not support Saturday delivery, then even though the delivery service name may imply that the delivery would be made on Saturday, the actual schedule for delivery for that particular service for that particular carrier would not take place until the following business day, e.g., the following Monday.

The UPS® reference cited by the Examiner teaches that some UPS® services support Saturday delivery; whereas others do not. For example, the UPS® reference screen shot that describes UPS® Next Day Air Early A.M. mentions, among other things, both a Saturday Delivery option and a Saturday Pickup option. The UPS® reference screen shot that describes UPS® Next Day Air mentions, among other things, both a Saturday Delivery option and a Saturday Pickup option. In contrast to UPS® Next Day Air Early A.M. and UPS® Next Day Air, the UPS® reference screen shot that describes UPS® 2nd

Day Air A.M. mentions, among other things, a Saturday Pickup option, but does not mention a Saturday Delivery option.

None of the pages of the UPS® reference mention a Sunday delivery.

In order to obtain a cross-comparison of rates for shipping a parcel according to various services (e.g., UPS® Next Day Air Early A.M., UPS® Next Day Air, UPS® 2nd Day Air A.M.) described in the UPS® reference, a user would have to separately navigate to each of the UPS® Next Day Air Early A.M., UPS® Next Day Air, UPS® 2nd Day Air A.M. screens, click on the "Quick Cost Calculator" link on the particular screen for the particular service, enter the information for shipping the parcel (presuming for the sake of argument that such screens would be available, because such screens are not shown in the reference), obtain a shipping rate, write the shipping rate down, and then proceed to the screen for the next service, and repeat the process until rates for all the services had been obtained and written down.

Even after going through all of the screens, and after recording the rates, there is no disclosure in the UPS® reference that the user would have a display of rates for delivering the parcel with a corresponding display of a particular time and a particular date on which each service would deliver the parcel. That is because, the names of the services notwithstanding, the names of the services can differ from an actual delivery of a parcel via a particular delivery service, depending on the day on which a parcel is shipped. For example, even though the name of one UPS® service depicted in the UPS® reference is "UPS® Next Day Air Early A.M.", if a package was shipped on a Saturday using the UPS® Next Day Air Early A.M. service, there is no indication on the UPS® Next Day Air Early A.M. screen that the package would be delivered on the next day -- that is because there is no indication on the UPS® Next Day Air Early A.M. screen that Sunday delivery is supported. Therefore, it is respectfully submitted that the UPS® Next Day Air Early A.M. service would deliver a package shipped on a Saturday on the following Monday. If a package was shipped on a Saturday using the UPS® 2nd Day Air A.M., it is respectfully submitted that the package would also be delivered on the following Monday.

For similar reasons, it is respectfully submitted that independent Claims 26 through 31, 57 through 62, and 65-70 are patentably distinguished from a listing of various delivery service levels offered by a single carrier, e.g., overnight, 2-day, etc. as depicted, for example, in FIG. 8 of Kara and in the UPS® reference.

For example, Claims 26, 57, and 65 recite prompting a user "... with an interactive prompt ... comprising a display of a plurality of cells, wherein each cell ...comprises an intersection of indications of a corresponding parcel delivery date and a corresponding parcel delivery time, and wherein at least one cell of said plurality of cells displays for user selection a calculated shipping rate, wherein said calculated shipping rate corresponds to a particular carrier delivering said particular parcel at or before the corresponding delivery time on the corresponding delivery date ...". It is respectfully submitted that a listing of various delivery service levels offered by a single carrier does not disclose an "interactive prompt ... comprising a display of a plurality of cells, wherein each cell ...comprises an intersection of indications of a corresponding parcel delivery date and a corresponding parcel delivery time..." as recited in Claims 26, 57, and 65.

Further, for the following reasons, combining the UPS® and/or FedEx® references with Kara still does not disclose or suggest the amended Claims of the present application. As compared to displaying shipping rates for each service of a plurality of services offered by each carrier of a plurality of carriers (as claimed in one way or another in Claims 1, 13, 21, 32, 44, 52, 63 and 64), Kara discloses a "program [that] automatically calculates the [shipping] fees for each shipping service provider offering service *commensurate with the desired shipping and/or delivery parameters.*" Kara, col. 22, lines 39 – 42 (emphasis added). Therefore, according to Kara, a user of Kara must first indicate the desired shipping and/or delivery parameters (e.g., Overnight, or Same Day, or Next Day, or 2-Day, or 3-Day) so that the Kara "program [will] automatically calculate[] the [shipping] fees for each shipping service provider offering service *commensurate with the desired shipping and/or delivery parameters.*" Kara, col. 22, lines 39 – 42 (emphasis added). That is, only once a user has indicated a

desired type of service, will the Kara program calculate the shipping rate for each carrier that supports *the desired service*.

Importantly, as can be seen in FIG. 8 of Kara, only one rate per carrier would be displayed. Accordingly, where, as is disclosed in, e.g., the UPS® reference, a carrier has more than one service (e.g., UPS® Next Day Air Early A.M., UPS® Next Day Air, UPS® 2nd Day Air A.M.), Kara provides no disclosure for display or calculation of a rate for each service of the respective carrier. Further still, as compared to the Claims of the present application, Kara provides no disclosure that a shipping rate would be calculated and/or displayed for each service of each respective carrier.

As compared to, e.g., amended independent Claims 1, 13, 27, 28, 32, 44, 58, 59, 63, and 64 of the present application, in order to obtain a cross-comparison of rates using Kara, it is respectfully submitted that a user would need to first indicate a first "urgency", e.g., "Overnight" on FIG. 8 of Kara, so that the Kara system would, according to the specification of Kara (e.g., Kara, col. 22, lines 39 – 42), calculate the rates for the shipping service providers (depicted in FIG. 8 of Kara as "US Post", "Federal Express", "DHL", "UPS", "Purolator", and "Emery") via the indicated first "urgency". Once the system had calculated the rates, the user could, for example, write the rates, or print the screen showing the rates, for the first indicated "urgency".

Next, in order to obtain a cross-comparison of rates using Kara, a user of Kara would need to indicate a second "urgency", e.g., "Next day" on FIG. 8 of Kara, so that the Kara system would, according to the specification of Kara (e.g., Kara, col. 22, lines 39 – 42), calculate the rates for the shipping service providers (depicted in FIG. 8 of Kara as "US Post", "Federal Express", "DHL", "UPS", "Purolator", and "Emery") via the indicated second "urgency". Once the system had calculated the rates, the user could, for example, write the rates, or print the screen showing the rates, for the second indicated "urgency".

The user would need to continue to indicate each successive "urgency", to cause the Kara system to calculate rates for each successive indicated urgency

for each shipping service provider; the Kara user would need to then write the rates, or print the screen showing the rates, for each successive "urgency".

Only when the Kara user had completed the process of indicating each successive "urgency", obtaining the rates, and writing the rates or printing the screens, would the Kara user have a cross-comparison of rates. However, having gone through such a process, the Kara user would have only a paper record of cross-comparison of rates, and would still not have a "simultaneous online interactive graphic cross-comparison of ... shipping rates" (e.g., as claimed in amended independent Claims 1, 32, and 63) or a "simultaneous[] display to a first particular user of a plurality of users [of] a first cross-comparison of a first plurality of service-specific, carrier-specific shipping rates... wherein the first cross-comparison is displayed to a respective display device that communicates with the respective user client computer device used by the first particular user" (e.g., as claimed in amended independent Claims 13, 44, and 64).

Moreover, for the following reasons, combining the UPS® and/or FedEx® and/or Kara references with Barnett still does not disclose or suggest the amended Claims of the present application. First, for the reasons described above, none of the UPS® and/or FedEx® and/or Kara, whether considered alone or in combination, disclose or suggest calculating and/or simultaneously displaying a shipping rate for *each service of each* respective carrier. It is therefore respectfully submitted that combining the UPS® and/or FedEx® references and/or Kara with a calendaring system such as Barnett does not disclose or suggest calculating rates and displaying the calculated rates adjacent a display indicating a respective time and date, such as is claimed, e.g., in amended Claims 1 and 32 of the present application.

Further, it is respectfully submitted that combining the UPS® and/or FedEx® and/or Kara references with a calendaring system such as Barnett does not disclose or suggest calculating rates and displaying the calculated rates in correspondence with delivery dates and times as claimed in, e.g., Claims 44, 63 and 64 of the present application.

It is respectfully submitted that Barnett does not disclose or suggest calculating rates and/or displaying calculated rates in correspondence with dates and times, or adjacent to dates and time, or at an intersection of indications of a corresponding date and time, or in association with a display of a corresponding delivery date and a corresponding delivery time, as claimed in one way or another in amended independent Claims 1, 26, 27, 28, 32, 44, 57, 58, 59, 63, 64, 65, 66 and 67. Rather, Barnett discloses a display of events in correspondence with dates and times.

As compared to the Claims of the present application, Barnett discloses "provid[ing] a multi-layered calendaring system wherein events belonging to different categories and selected by a user can be overlaid on one another in a single integrated calendar." Barnett, col. 2, lines 26 – 29. Providing a multi-layered calendaring system wherein *different* events belonging to different categories and selected by a user can be overlaid on one another in a single integrated calendar, as disclosed in Barnett, does not disclose or suggest calculating and/or displaying rates for a single event (delivering a package) via different services (offered by various carriers), which is the subject matter of the Claims of the present application.

Further, it is respectfully submitted that, even if fees for events were displayed in the Barnett calendar depicted in Figure 9, those fees would be associated with the *various* events calendared, as opposed to the subject matter of the Claims of the present application, of displaying and/or calculating rates for a *single* event (the delivery of a particular parcel).

Still further, for the above-described reasons, it is respectfully submitted that, none of the cited references, whether considered alone or in combination, disclose or suggest the subject matter of Claims 29, 60 and 68, which are directed to detecting a clicking of a cell of an "online interactive display as a selection ... of a particular service ... by a particular carrier ... for shipping a particular parcel ...".

Further, for the above-described reasons, it is respectfully submitted that, none of the cited references, whether considered alone or in combination,

disclose or suggest the subject matter of Claims 30, 61 and 69, which are directed to detecting a "placement of a cursor... over a cell of an online interactive display as a selection ... of a particular service ... by a particular carrier... for shipping a particular parcel ...".

Further still, for the above-described reasons, it is respectfully submitted that, none of the cited references, whether considered alone or in combination, disclose or suggest the subject matter of Claims 31, 62 and 70, which are directed to responding "to a clicking ... of a cell of an online interactive display, by displaying an onscreen display of a shipping label for shipping a particular parcel with a particular carrier and a particular service ...".

Yet further, it is respectfully submitted that there is no teaching or suggestion to make the claimed combination, or the reasonable expectation of success found in the prior art, because, for the reasons given above, all the elements of the Claims of the present application are not found in the prior art.

For the foregoing reasons and authorities, because independent Claims 1, 13, 26-32, 44, and 57-70 are patentable over the cited references, Applicant respectfully submits that dependent Claims 2-12, 14-21, 33-43, and 45-52, are therefore also patentable over the cited references.

In view of the foregoing amendments, and for the foregoing reasons and authorities, Applicant respectfully submits that the invention disclosed and claimed in the Claims of the present amended application is not fairly taught by any of the references of record, taken either alone or in combination, and that the application is in condition for allowance. Accordingly, Applicant respectfully requests reconsideration and allowance of the amended application.

Respectfully submitted,

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